

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on June 9, 2003.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$650.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The work hardening (97545 & 97546) was found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

This Findings and Decision is hereby issued this 24th day of May 2004.

Patricia Rodriguez
Medical Dispute Resolution Officer
Medical Review Division

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 01/21/03 through 01/31/03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 24th day of May 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/pr

IRO Certificate #4599

NOTICE OF INDEPENDENT REVIEW DECISION Correction to Name 5/20/04

May 5, 2004

Re: IRO Case # M5-04-1893

Texas Worker's Compensation Commission:

___ has been certified as an independent review organization (IRO) and has been authorized to perform independent reviews of medical necessity for the Texas Worker's Compensation Commission (TWCC). Texas HB. 2600, Rule 133.308 effective January 1, 2002, allows a claimant or provider who has received an adverse medical necessity determination from a carrier's internal process, to request an independent review by an IRO.

In accordance with the requirement that TWCC assign cases to certified IROs, TWCC assigned this case to ___ for an independent review. ___ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, ___ received relevant medical records, any documents obtained from parties in making the adverse determination, and any other documents and/or written information submitted in support of the appeal.

The case was reviewed by a physician who is Board certified in Physical Medicine and Rehabilitation, and who has met the requirements for TWCC Approved Doctor List or has been approved as an exception to the Approved Doctor List. He or she has signed a certification statement attesting that no known conflicts of interest exist between him or her and any of the treating physicians or providers, or any of the physicians or providers who reviewed the case for a determination prior to referral to ___ for independent review. In addition, the certification statement further attests that the review was performed without bias for or against the carrier, medical provider, or any other party to this case.

The determination of the ___ reviewer who reviewed this case, based on the medical records provided, is as follows:

Medical Information Reviewed

1. Table of Disputed Services 2/28/03
2. Explanation of benefits
3. Letter from rehab clinic to IRO 4/5/04
4. Denial reviews 4/22/03, 4/11/03, 8/9/03
5. Carrier summary for IRO
6. Employers first report of injury
7. Operative report 8/13/02
8. FCE 12/17/02, 2/20/03
9. Plan of care WHP 12/17/02
10. Work hardening progress notes 12/20/02 – 1/31/03
11. Group therapy progress notes 12/18/02-1/31/03
12. RME report
13. NCS report 2/4/03
14. Clinical notes neurologist 1/22/03, 2/4/03, 6/17/02
15. EMG/NCS report 6/17/02
16. X-ray report cervical spine 1/15/03

17. CT scan head report 1/15/03
18. X-ray report spine 6/7/02
19. MRI report cervical spine 6/8/02
20. X-ray report cervical spine 2/28/02
21. X-ray report pelvis and right hip 2/28/02
22. Office notes orthopedist 6/25/02, 1/14/03

History

The patient is a 45-year-old female who on ____ slipped on liquid detergent and fell, landing on her right elbow. She was taken to the ER, and x-rays were obtained that were negative. The patient followed up with an M.D. and began physical therapy for pain and muscle spasms in her neck, and continued pain in her right elbow. Electrodiagnostic testing on 6/17/02 demonstrated a right ulnar nerve lesion. Surgery for ulnar nerve decompression was performed on 8/13/02. In October, the patient was returned to work without restrictions. She apparently had difficulty with continued pain and muscle spasms, and a 12/17/02 FCE demonstrated an ability to carry out a light physical demand level. A work hardening program was recommended, which began on 12/17/02 and was completed 1/31/03.

Requested Service(s)

Work hardening 97545, 97546 1/21/03 – 1/31/03

Decision

I disagree with the carrier's decision to deny the requested work hardening.

Rationale

The patient suffered a traumatic injury to her right elbow that caused an ulnar neuropathy, and led to surgery on 8/13/02. She was started on physical therapy post operatively, but was unable to return to work because of pain, loss of function, weakness and decreased range of motion. As a result of pain, she was further restricting the use of her arm, causing further loss of function and weakness. An FCE demonstrated her inability to function at the physical demand level required for her job. It also documented evidence of psychological barriers to her recovery and return to work. The patient progressed in her work hardening program, as demonstrated by her increase in range of motion, strength and activity tolerance. On the completion of her program she was able to return to work, according to her therapist. Therefore, completion of the work hardening program was necessary and appropriate.

This medical necessity decision by an Independent Review Organization is deemed to be a Commission decision and order.